

In the  
**Indiana Supreme Court**



IN THE MATTER OF THE )

APPROVAL OF LOCAL RULES )

FOR POSEY COUNTY )

Case No. 65S00-1010 -MS- 530

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Posey Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E) and appointment of special judges in accordance with Ind. Criminal Rule 13 and Ind. Trial Rule 79. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Posey Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR65-CR2.2-01, LR65-AR1-02, LR65-AR1-03, LR65-CR2.2-04, and LR65-TR79-05, comply with the requirements of Ind. Administrative Rule 1(E), Ind. Criminal Rule 13 and Ind. Trial Rule 79, and accordingly, should be approved.

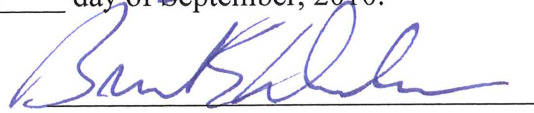
IT IS, THEREFORE, ORDERED by this Court that Posey County Local Rules, LR65-CR2.2-01, LR65-AR1-02, LR65-AR1-03, LR65-CR2.2-04, and LR65-TR79-05, set forth as an attachment to this Order, are approved effective January 1, 2011, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. James M. Redwine, Posey Circuit Court, Courthouse, P.O. Box 745, Mount Vernon, IN 47620-0745; the Hon. S. Brent Almon, Posey Superior Court, Courthouse, P.O. Box 604, Mount Vernon, IN 47620-0604; to the Clerk of the Posey Circuit Court; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Posey Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination

by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 4<sup>th</sup> day of October, 2010.

A handwritten signature in blue ink, appearing to read "Randall T. Shepard", written over a horizontal line.

Randall T. Shepard  
Chief Justice of Indiana ACTING CHIEF JUSTICE

**LR65-CR2.2-01      Rule for the Assignment of Criminal Cases in the Posey Circuit**

**and Superior Courts.** The Clerk of the Courts of Posey County shall assign criminal cases between the Courts of Posey County as follows:

(A) Felony Cases. If a named defendant is on felony probation or has a pending felony case in the Posey Circuit or Posey Superior Court, the case shall be assigned to the court in which the defendant is on felony probation or in which the prior case is pending. Criminal Grand Jury proceedings shall be held in the Posey Circuit Court and any criminal indictment returned filed in the Posey Circuit Court. All other felony cases (MR, FA, FB, FC, and FD) shall be randomly assigned to the Posey Circuit and Superior Courts in accordance with LR65-AR1-03. If more than one defendant is charged in a separate cause number for acts arising out of the same incident or course of conduct, all cases so related shall be assigned to a single court determined randomly in accordance with LR65-AR1-03. The random assignment of related cases shall apply even though one or more of the defendants charged is on probation or has a pending felony case. If an indictment or information contains felony and misdemeanor charges, the case shall be considered a felony case.

(B) Misdemeanor Cases. Misdemeanor cases (CM) shall be assigned to the Posey Superior Court.

(C) OVWI and Habitual Traffic Violator Cases. All criminal offenses under I.C. 9-30-5 and I.C. 9-30-10 shall be assigned to the Posey Superior Court.

(C) Post Conviction Relief. Post Conviction Relief Petitions (PC) shall be assigned to the court in which judgment of conviction was entered.

**LR65-AR1-02          Rules for Assignment of Civil Cases in the Posey Circuit and**

**Superior Courts.** Civil cases shall be assigned between Posey Circuit and Superior Courts as follows:

(A) Dissolution of Marriage (DR), Mental Health (MH), Juvenile CHINS (JC), Juvenile Delinquency (JD), Juvenile Status (JS), Juvenile Miscellaneous (JM), Juvenile Termination of Parental Rights (JT), Juvenile Paternity (JP), Reciprocal Support (RS), Adoption (AD), Estate Supervised (ES), Estate Unsupervised (EU), Guardianship (GU), Trust (TR), Petition for Change of Name (MI), and Election Recount (MI) shall be assigned to the Posey Circuit Court.

(B) Small Claim (SC), Traffic Violation and other Infractions (IF), Local Ordinance Violation (OV), and Petitions for Protective Order (PO) shall be assigned to the Posey Superior Court.

(C) Civil Plenary (CP), Civil Collection (CC), Mortgage Foreclosure (MF), Civil Tort (CT), and all other Miscellaneous Civil (MI) cases shall be randomly assigned to the courts in accordance with LR65-AR1-03.

**LR65-AR1-03          Rule for Random Assignment of Felony and Civil Cases.** The Clerk of the Courts of Posey County shall devise and utilize a plan for the random and equal assignment of all other felony and civil cases required by these rules to be assigned at random to the Posey Circuit and Superior Courts.

**LR65-CR2.2-04      Change of Judge in Criminal Cases.**

(A) If a change of judge, recusal, or disqualification is granted by the judge of the Posey Circuit or Superior Court in a felony or misdemeanor case under the provisions of Indiana Criminal Rule 12; if a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b); and upon change of judge in infraction and ordinance violation cases; the Clerk shall assign the case to the remaining judge of the Posey Superior or Circuit Court, as the case may be. Should the judge of the Posey Superior or Circuit Court be ineligible to serve as special judge in the case thus assigned, the Clerk shall assign the case to a qualified senior judge of the court in which the case is pending. If there is no qualified senior judge of the court in which the case is pending or a qualified senior judge is ineligible to serve as special judge in the case, the Clerk shall then assign the case in seriatim to a presiding judge or magistrate of the following courts: Vanderburgh Superior, Gibson Superior, Vanderburgh Circuit, Gibson Circuit. At any time, if the judge having jurisdiction feels that special circumstances merit the appointment of a special judge by the Indiana Supreme Court, the Court shall certify the case to the Supreme Court for the appointment of a special judge.

(B) A judge assigned to a case pursuant to these local rules remains the judge in the case unless the judge shall become ineligible to serve, in which event a new judge shall be assigned in accordance with this rule.

(C) If a felony or misdemeanor case is dismissed from and re-filed in the Posey Circuit and/or Superior Court, or a new case is filed based on the same underlying incident, the judge assigned to the case at the time of the dismissal shall be assigned as the judge in the case upon the case being filed or re-filed, unless the judge in the dismissed case shall order otherwise, in which event the case shall be assigned to another judge in accordance with this rule.

**LR65-TR79-05 Rule for the Selection of a Special Judge in a Civil Case in the Posey**

**Circuit and Superior Courts.** If it shall become necessary to select a special judge in the Posey Circuit or Superior Court pursuant to Rule 79 (H), Indiana Rules of Trial Procedure, the following procedure shall be used in the selection of the special judge:

(A) The judge of the Posey Circuit Court shall serve as special judge in all cases wherein the judge of the Posey Superior Court is ineligible to serve or an order of disqualification or recusal has been entered. The judge of the Posey Superior Court shall serve as special judge in all cases wherein the judge of the Posey Circuit Court is ineligible to serve or an order of disqualification or recusal has been entered.

(B) Should the judge of the Posey Superior or Circuit Court be ineligible to serve as special judge in the case thus assigned, the Clerk shall then assign the case to a qualified senior judge of the court in which the case is pending. If such senior judge of the court in which the case is pending is ineligible to serve as special judge in the case, the Clerk shall assign the case to a qualified senior judge of the other court.

(C) If no judge qualifies and assumes jurisdiction under subdivision (A) or (B) of this rule in the case of recusal or disqualification, or it should become necessary to appoint a special judge after failure to name a special judge under Trial Rule 79(D), (E), or (F), the Clerk shall then assign the case in seriatim to a presiding judge or magistrate of the following courts: Vanderburgh Superior, Gibson Superior, Vanderburgh Circuit, Gibson Circuit.

(D) If the judge of the Posey Circuit or Superior Court feels that special circumstances merit the appointment of a special judge by the Indiana Supreme Court, the Court shall certify the case to the Supreme Court for the appointment of a special judge.